

The 8th June, 1972

No. 4212-2ECDI-72/7094.—Shri Yoginderpal Singh Extension Officer will hold the current charge of the Hathin Block in addition to his own duties till a regular Block Development and Panchayat Officer is posted in that Block.

2. While holding the charge, the aforementioned officer shall exercise the powers of Drawing, Disbursing and Controlling Officer in respect of the Hathin Block.

No. 4127-2ECDI-72/7099.—Shri Mansa Ram, Extension Officer will hold the current charge of the Safidon Block in addition to his own duties till a regular Block Development and Panchayat Officer is posted in that Block.

2. While holding the charge, the aforementioned officer shall exercise the powers of Drawing, Disbursing and Controlling Officer in respect of the Safidon Block.

N. K. S. JHALA, Dy. Secy.

LABOUR AND EMPLOYMENT DEPARTMENT

The 31st May, 1972

No. 5294-1Lab-72/21036.—The Governor of Haryana is pleased to make the following appointment and posting :—

Serial No.	Name of Officer	Appointed and posting as	With effect from	Remarks
1	Shri Hukam Chand Juneja	Assistant Employment Officer, Sub-Regional Employment Exchange, Ambala	The 8th May, 1972 (F.N.)	Against the existing vacancy

B. L. AHUJA,

Commissioner for Labour & Employment & Secy.

LABOUR DEPARTMENT

The 3rd/6th June, 1972

No. 5906-4 Lab-72/24469.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad, in respect of the dispute between the workmen and the management of M/s. Arail Brothers, Faridabad. :—

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 92 of 1971

between

THE WORKMEN AND THE MANAGEMENT OF M/S. ARAIL BROTHERS, FARIDABAD

Present:—

Nemo, for the workmen.

Shri R. C. Sharma, for the management.

AWARD

The following disputes between the management of M/s Arail Brothers, Faridabad and its workmen were referred for adjudication to this Tribunal by the Governor of Haryana, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947:—

1. Whether the management should pay dearness allowance to the workmen? If so, with what details?
2. Whether the management should pay bonus to the workmen for the years 1968-69 and 1969-70? If so, with what details?
3. Whether the workmen are entitled to the supply of uniforms? If so, with what details?

On receipt of the order of reference, notices were given to the parties and they have put in their respective written statement. In the statement of claim filed on behalf of the workmen on 20th December, 1971, by their authorised representative Shri R. L. Sharma, the above demands which had earlier been raised through demand notice dated 5th March, 1971, received along with the order of reference were reiterated. The management filed the written statement on 2nd March, 1972, contesting the demands of the workmen pleading *inter alia* that the General Labour Union led by Shri R. L. Sharma who had given the demand notice leading to the present reference was no longer in existence and the workmen of the establishment had not espoused these demands. It was further pleaded that the demand for dearness allowance was barred under an existing settlement dated 30th January, 1971, and a separate reference was already pending before this Tribunal with regard to the demand for bonus for the year 1969. The following issues were framed in this case.

1. Whether the present reference is bad in law ?
2. Whether the demand for dearness allowance is barred under an existing settlement dated 30th January, 1971 ?
3. If issue No. 2 is not proved.
 - (i) Whether the management should pay dearness allowance to the workmen ? If so, with what details ?
 - (ii) Whether the management should pay bonus to the workmen for the years 1968-69 and 1967-70 ? If so, with what details ?
 - (iii) Whether the workmen are entitled to the supply of uniforms ? If so, with what details ?

The workmen have not adduced any evidence in spite of getting several adjournments. They have further elected not to appear and pursue the case. Their authorised representative Shri R. L. Sharma who had given the demand notice has also not appeared. The management has relied mainly upon documentary evidence consisting of agreement dated 15th January, 1972 Ex. M-1, another agreement dated 30th January, 1971, Ex. M-2 and the award of this Tribunal dated 15th February, 1972, in reference No. 137 of 1970, Ex. M-3 and the award dated 8th September, 1971, in reference No. 65 of 1971 Ex. M-4. Evidence of the management has been recorded.

I have heard the learned representative of the management and given a careful consideration to the material on record. The issues may be taken up separately.

Issue No. 1.—It has been urged on behalf of the management that the General Labour Union, Faridabad headed by Shri R. L. Sharma who had given the demand notice leading to the present reference and then filed the statement of claim on behalf of the workmen had been deregistered,—*vide* letter No. 7908, dated 18th February, 1971 of the Registrar of Trade Unions and the Labour Commissioner, Haryana, Chandigarh. The contention is not without force. At any rate it was for the workmen or their union leader to show that the union was still in existence when the present demands were raised and he had authority to raise the demands on behalf of the workmen in this establishment but nothing of the sort has been proved in the case so much so that no workmen has come forward to make a statement on oath nor their authorised representative of the union leader Shri R. L. Sharma. The issue is, therefore, decided against the workmen for want of evidence.

Issue No. 2.—Even if it be assumed for the sake of arguments that the said union was in existence and was competent to raise the demand on behalf of the workmen of this concern. The management has succeeded in proving that the demand for dearness allowance was barred under a settlement dated 30th January, 1971, Ex. M-2 which has been relied upon by the management in an other reference No. 65 of 1971 also. The workmen have adduced no reasonable rebuttal of this plea raised by the management and it has not been shown as to how they are not bound by the said settlement. The issue is therefore, decided in favour of the management and against the workmen and it is held that the demand for dearness allowance is barred under settlement dated 30th January, 1971, which is binding on the parties.

Issue No. 3(i).—In view of my above findings on issue No. 2 this issue has become redundant and is held accordingly against the workmen.

Issue No. 3(ii).—The claim of the workmen for payment of bonus for the years 1968-69 and 1969-70 is also proved to be not well founded. In reference No. 65 of 1971 the workmen had raised a demand for bonus for the period of 1966-67, 1967-78 which was rejected,—*vide* award dated 8th September, 1971, Ex. M-4 with the findings that the workmen had withdrawn their demand under the settlement dated 31st January, 1971, Ex. M-2, on record taking into consideration the facts that the establishment had been newly set up and had not yet completed the 6 years of its productions. The demand for bonus for the year 1969 is covered by the award dated 15th February, 1972, in reference No. 137 of 1970 wherein it has been held that the workmen

were not entitled to bouns for this period because the establishment had been incurring losses from the very beginning. A settlement has further been arrived at between the parties regarding bouns claimed by the workmen for the year 1970. According to this settlement dated 15th January, 1972 Ex. M-1 the workmen have been paid bonus at 4 per cent and the same has been accepted by them without any protest. As already pointed out they have not come forward to question the validity of this settlement also. That disposes of the issue relating to bonus which for the reasons discussed above is decided against the workmen.

Issue No. 3(ii).—There is not much to discuss with regard to this issue. The necessary particular regarding the nature of the duties performed by the workmen and the names and categories of the workmen for whom the uniforms are required have not been furnished either in the demand notice or the statement of claim filed in the Court except for citing instances of the Escorts Ltd, Faridabad. The Gedore Tool Ltd., Faridabad, Hindustan Brown Boveries Ltd, Faridabad with which the present concern has no comparison at all. Moreover the Workmen have not come forward to press this demand. The issue is decided against them.

That disposes of the entire case and in view of the above findings on the issues involved I am quite clear in my mind that the workmen are not entitled to any relief, most of their demands being barred under existing settlement and award. The awards in the present reference is made accordingly but without any order as to costs,

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Dated 20th May, 1972.

No. 593, dated the 20th May, 1972

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 20th May, 1972.

O. P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 6th June, 1972

No. 5910-4Lab-72/24467.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Haryana, Faridabad in respect of the dispute between the workmen and the management of M/s :

1. The Karnal Co-operative Transport Society, Ltd., Karnal.
2. The New Karnal Co-operative Transport Society Ltd., Karnal.
3. The Karnal Delhi Co-operative Transport Society, Ltd., Karnal.

BEFORE SHRI O. P. SHARMA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,
HARYANA, FARIDABAD

Reference No. 67 of 1967

Between

THE WORKMEN AND THE MANAGEMENT OF M/S :

- (1) The Karnal Co-operative Transport Society, Ltd., Karnal.
- (2) The New Karnal Co-operative Transport Society Ltd., Karnal.
- (3) The Karnal Delhi Co-operative Transport Society Ltd., Karnal.

Present:—

Shri Madhu Sudan Saran Cowshish, for the workmen.

Shri M.L. Saini, for the management.

AWARD

The facts material for the disposal of this reference under section 10 of the Industrial Disputes Act, 1947 may briefly be stated as under :—

The workmen of M/s (i) The Karnal Cooperative Transport Society Ltd., Karnal, (ii) The New Karnal Cooperative Transport Society Ltd., Karnal, (iii) The Karnal Delhi Cooperative Transport Society Ltd., Karnal, raised as many as 11 demands,—*vide* demand notice dated 17th December, 1966, including the one for introduction of the gratuity scheme on the same basis as had been granted to the employees of the Roadways. It was urged that on 17th April, 1957 a settlement had been arrived at between the parties (Exhibit M.W. 1/1 on record), that the terms and conditions of service then applicable to all the categories of the employees of the Roadways and as modified from time to time by the Government would be applicable to the workmen of the respondent Transport Societies but in complete disregard of this settlement the gratuity scheme had not been introduced although the management had made huge profits out of the transport business. The above demand of the workmen was not acceded to by the management which gave rise to an industrial dispute. On receipt of the failure report from the Conciliation Officer, the Governor of Haryana referred the dispute for adjudication to this Tribunal in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947,—*vide* order No. 238-SFIII-Lab-67, dated, 3rd August, 1967, the term of reference being as given under :—

Whether the gratuity scheme should be introduced in the above mentioned Transport Companies ?
If so, with what details and from which date ?

After hearing both the parties my learned predecessor Shri P.N. Thukral gave his award on 12th September, 1969 rejecting the above demand of the workmen with the findings that the settlement of 17th April, 1957 relied upon by them was not in force and the financial position of the respondent societies was not such as would justify the introduction of the gratuity scheme. Feeling aggrieved the workmen preferred a Civil Writ Petition No. 43 of 1970 which was allowed by the Hon'ble the High Court and the case was remanded for fresh decision on the grounds pleaded by the workmen in their statement of claim including one on the basis of the aforesaid settlement dated 7th of April, 1957. The Latters Patent Appeal filed by the management was dismissed,—*vide* order dated July 14, 1971 with the observations that while re-deciding the case this Tribunal had to go into all the points available to the parties including the financial position of the management.

The workmen examined six witnesses and relied upon 5 documents including the settlement dated 17th April, 1957 and the gratuity scheme of the Roadways. The management placed reliance upon 18 documents including notice dated 18th April, 1967 regarding termination of the aforesaid settlement, balance sheets, profit and loss account statements, etc. After the remand of the case the workmen have recalled Shri Madan Lal, General Secretary of the District Motor Transport Workers Union Regd., Karnal and has filed on record the copy of the award, dated 18th May, 1966 in reference No. 31 of 1965 between the management of M/s Pepsu Roadways Transport Corporation Patiala and its employees. The management, on the other hand, has examined six witnesses and brought on record a number of documents including up-to-date balance sheets and profit and loss account statements of all the three concerns, notifications issued by the Government from time to time regarding nationalisation of the Road Transport in the State.

The case has been argued on both sides and I have given a very careful consideration to the facts on record. The learned representative of the workmen has urged that their claim for entitlement to gratuity scheme similar to that of the employees of the Roadways is based essentially on the settlement dated 17th April, 1957 irrespective of the financial position of the respondent Companies. The contention, I am afraid, is not warranted by the facts on record and the claim of the workmen as stated above is manifestly not well founded. A pursual of the settlement in question Exhibit A-1 would show that it had to remain in force for 10 years and there is documentary evidence on record to prove that the management had terminated this settlement on the expiry of the period of 10 years and in the prescribed manner. Reference may usefully be made in this behalf to the notice, dated 18th April, 1967 given by the management to the concerned workmen terminating the aforesaid settlement. This notice has not been denied on behalf of the workmen and the inevitable result of this two months notice for termination of the settlement was that the same no longer remained in force after the expiry of the notice period. In other words the workmen could not claim any benefit under the aforesaid settlement which had stood terminated much before the reference of the dispute for adjudication to this Tribunal, the date of reference being 3rd August, 1967. The learned representative of the workmen has not been able to satisfy me to the contrary.

Even otherwise, the workmen have not made out a good case for the introduction of the gratuity scheme in the respondent transport Companies. I have very manutely studied the grounds set forth in the statement of claim filed by them. The respondent Transport Companies stands no where as compared to the Haryana Roadways and for that matter the Punjab Roadways especially after the nationalisation of the Road Transport by the State Government as a result where of most of the route permits of all the three Transport units have been drawn and 70 to 80% of the workmen have consequently been brought under retrenchment. This fact has not been disputed on behalf of the workmen. In the circumstances, the respondent Transport Companies can by no stretch of imagination be treated at par with the Haryana Roadways or the Punjab Roadways. Their business has manifestly

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dwindled to a very great extent, it is infact on the verge of complete closure. The balance sheets and profit and loss account statements produced by the respondent Companies speak for themselves and the conclusion is irresistible that these companies have incurred huge losses as a result of the gradual introduction by the State Government of the various schemes for the nationalisation of the Road Transport. The workmen have produced no rebuttal whatever of the documentary and oral evidence led by the management.

It would, thus appear that the respondent Transport Companies are certainly not in a financial position so as to incur the extra burden of the introduction of the gratuity scheme. In the changed circumstances and deteriorating financial position of the respondent Transport Companies the workmen can not obviously be held entitled to the benefit of the gratuity scheme asked for by them even if the management had in the past conceded this right in principle or had entered into settlement with them in this behalf although the same had stood terminated as already observed.

For the reasons aforesaid, the issue is decided against the workmen and it is held that they are not entitled to the introduction of the gratuity scheme. The ward is made accordingly but without any order as to costs.

Dated the 22nd May, 1972.

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 594, dated 22nd May, 1972.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

Dated 22nd May, 1972

O.P. SHARMA,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

B. L. AHUJA,
Commissioner for Labour and Employment,

IRRIGATION DEPARTMENT

The 2nd May, 1972.

No. 7498/21L.—Whereas it appears to the Governor of Haryana that land specified below is needed by Government at public expense for a public purpose, namely for the construction of Moda Khera Minor from R.D.0. to Tail R.D. 50,000 taking off at R.D. 100,000 left Kishangarh sub Branch.

It is hereby notified that the land in the locality specified below is to be required for the above purpose.

This notification is made under the provisions of section 4 of the Land Acquisition Act, 1894, for the information of all to whom it may concern.

In exercise of the powers conferred by the aforesaid section, the Governor of Haryana hereby authorises the officers of Irrigation Department for the time being engaged in the undertaking alongwith their servants, workmen etc. to enter upon and survey land in the locality and do all other acts required or permitted by that Sections.

Further, where as the Governor of Haryana is satisfied that the land is required for the Bhakra canal which is of very urgent important within the meaning of clause (c) of sub-section (2) of section 17 of the said act and where as the Governor of Haryana is of the opinion that the provisions of sub-sections (2) of the said section are thus applicable, it is hereby directed under sub-section (4) of section 17 of the said Act, that the provisions of section 5-A of the said Act, shall not apply in regard to this acquisition.

SPECIFICATIONS

District	Tahsil	Village	Area in acres	Boundary
Hissar	Hissar	Siswal	21.16	A strip of land measuring 50,000 feet in length and varying in widths comprising of part field numbers 46/9, 10, 11, 20, 21, 73/1, 10, 11, 20, 21, 82/1, 10, 11, 20, 21, 111/1.

District	Tehsil	Village	Area in Acres	Boundary
Hissar	Hissar	Siswal—concl'd	21.16—concl'd	10, 11, 20, 21, 119/1, 10, 11, 20, 21, 149/1, 10, 11, 20, 21, 155/1, 10, 11, 20, 21, 187/1, 10, 11, 20, 21, 191/1, 10, 11, 20, 21, 224/1, 10/1, 11, 20, 21, 226/1, 10, 11, 225/5, 6, 15, 16, 190/5, 6, 15/1, 25, 16/2, 25, 188/5, 6, 15, 16, 25, 154/5, 6, 15, 16, 25, 150/5, 6, 15, 16, 25, 118/5, 6, 15, 16, 25, 112/5, 6, 15, 16, 25, 81/5, 6, 15, 16, 25, 74/5, 6, 15, 16, 25 in village Siswal
Do	Do	Mohabbatpur	23.39	Part field numbers 194/4, 5, 6, 7, 14, 15, 16, 17, 24, 25, 223/4, 5, 6, 7, 14, 15, 16, 17, 24, 226/4, 7, 14, 17, 24, 253/4, 6, 7, 14, 15, 16, 25, 254/21, 257/1, 258/5, 4, 6, 7, 8, 13, 12, 19, 20, 21, 259/24, 25, 283/3, 4, 5, 7, 8, 283/9, 12, 11, 20, 282/16, 23, 24, 25, 286/2, 3, 4, 8, 9, 10, 11, 287/15, 16, 17, 24, 23, 22, 308/1, 2, 3, 9, 10, 307/15, 6, 17, 14, 18, 23, 22, 21, 312/1, 2, 10, 313/5, 6, 7, 14, 13, 18, 313/19, 21, 22, 314/25, 328/5, 4, 6, 7, 14, 13, 18, 19, 21, 22, 23, 330/1, 2, 10, 331/5, 6, 15, 14, 18, 341/15, 16, 17, 23, 343/2, 3, 9 in village Mohabbatpur
Do	Do	Bagla	7.19	Part field numbers 52/16, 17, 24, 23, 22, 54/3, 2, 9, 1, 10, 11, 53/25, 24, 78/4, 8, 12, 11, 20, 79/16, 25, 24, 82/4, 5, 7, 8, 12, 13, 19, 20, 21, 81/25, 110/5, 6, 7, 14, 13, 18, 19, 21, 22, 112/2 in village Bagla
Do	Do	Ghursal	15.70	Part field numbers 26/1, 10, 25/5, 6, 15, 14, 17, 18, 22, 23, 24, 28/2, 3, 9, 10, 11, 29/15, 16, 17, 23, 24, 25, 45/3, 4, 8, 9, 11, 12, 20, 21, 44/16, 24, 25, 49/4, 5, 7, 8, 12, 13, 19/1, 19/2, 20/2, 21, 22, 50/25, 64/1, 63/5, 6, 7, 13, 14, 18, 19, 22, 23, 63/21, 70/1, 2, 10, 11, 71/6, 6/1, 6/2, 14, 15, 17, 16, 23, 24, 80/2, 3, 8, 9, 10, 11, 12, 20, 21, 79/16, 79/24, 25, 87/4, 5, 7, 8 in village Ghursal
Do	Do	Kutia Kheri	10.01	Part field numbers 2/12, 13, 18, 19, 21, 22, 7/1, 2, 10, 8/6, 14, 15, 16, 17, 23, 24, 11/3, 4, 2/2, 8, 9, 11, 12, 19, 20, 21, 10/25, 21/1, 22/4, 5, 6, 7, 8, 18, 19, 13, 14, 21, 22, 23, 23/1, 2, 10 in village Kutia Kheri
Do	Do	Chaudhriwali	12.00	Part field numbers 66/6/1, 14, 15, 16, 17, 18, 23, 24, 67/11, 69/2, 3, 8, 9, 10, 11, 12, 20, 70/15, 16, 24, 25, 86/3, 4, 7, 8, 9, 12, 13, 19/1, 19/2, 20, 21, 22, 92/1, 93/5, 6/1, 6/2, 7, 13, 14, 15, 17, 18, 22, 23, 110/1, 2, 9, 10, 11, 109/6/1, 6/2, 15, 14, 16/1, 16/2, 17, 24, 25/1 in village Chaudhriwali generally lying in the direction from north to south and east to south-west as shown on the index plan in red and demarcated at Site
Total			89.45	

By Order of the Governor of Haryana.

S. K. BARMAN,
Superintending Engineer,
Hissar Bhakra Canals Circle,
Hissar.